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Title: Secretary-General reported the messages from Rajya Sabha that Rajya Sabha passed the Wakf (Amendment) Bill, 2010, passed by the Lok Sabha on the 7th May, 2010; communicating the Lok Sabha regarding election of 03 Members of Rajya Sabha to the Committee on Welfare of Other Backward Classes (OBCs) and passed the Representation of the People (Amendment and Validation) Bill, 2013.

SECRETARY-GENERAL: Madam Speaker, I have to report the following messages received from the Secretary-General of Rajya Sabha:-

I am directed to inform the Lok Sabha that the Wakf (Amendment) Bill, 2010, which was passed by the Lok Sabha at its sitting held on the 7th May, 2010, has been passed by the Rajya Sabha at its sitting held on the 19th August, 2013, with the following amendments:-

ENACTING FORMULA

1. That at page 1, line 1, *for* the word "Sixty-first", the word "Sixty-fourth" be *substituted*.

CLAUSE 1

2. That at page 1, line 3, *for* the figure "2010", the figure "2013" be *substituted*.

CLAUSE 5

3. That at page 2, line 7, *after* the word "person", the words "or institution, public or private" be *inserted*.

4. That at page 2, line 9, *after* the words "terminated by" the words "mutawalli or" be *inserted*.

5. That at page 2, line 18, the word "such" be *deleted*.

6. That at page 2, line 22, *after* the word "Khanqah" the words "peerkhana and karbala" be *inserted*.

7. That at page 2, ***for*** lines 23 to 27, the following be ***substituted***, namely:-

"(v) for clause (r), the following clause shall be *substituted,* namely:-

(r) "waqf" means the permanent dedication by any person, of any movable or immovable property for any purpose recognised by the Muslim law as pious, religious or charitable and includes –

(i) a waqf by user but such waqf shall not cease to be a waqf by reason only of the user having ceased irrespective of the period of such cesser;

(ii) a Shamlat Patti, Shamlat Deh, Jumla Malkkan or by any other name entered in a revenue record;

(iii) "grants", including mashrat-ul-khidmat for any purpose recognised by the Muslim law as pious, religious or charitable; and

(iv) a waqf-alal-aulad to the extent to which the property is dedicated for any purpose recognised by Muslim law as pious, religious or charitable, provided when the line of succession fails, the income of the waqf shall be spent for education, development, welfare and such other purposes as recognised by Muslim law,

and "waqif" means any person making such dedication;".

CLAUSE 6

8. That at page 2, ***after*** line 28, the following be ***inserted***, namely:-

"(a) in sub-section (1), for the words 'wakfs existing in the State at the

date of the commencement of this Act', the words 'auqaf in the State' shall be *substituted*;".

9. That at page 2, line 29, ***for*** the bracket and alphabet "(a)", the bracket and alphabet "(b)", be ***substituted***

10. That at page 2, line 33, ***for*** the figure "2010" the figure "2013" be ***substituted***

11. That at page 2, line 34, ***for*** the figure "2010" the figure "2013" be ***substituted***

12. That at page 2, ***for*** lines 38 and 39, the following be ***substituted***, namely:-

"(c) in sub-section (6).-

(i) in the proviso, for the words "twenty years", the words "ten years" shall be *substituted*;

(ii) after the proviso, the following proviso shall be *inserted*, namely:-

"Provided further that the waqf properties already notified shall not be reviewed again in subsequent survey except where the status of such property has been changed in accordance with the provisions of any law."

CLAUSE 7

13. That at page 3, ***for*** lines 2 to 4, the following be ***substituted*** namely:-

"(3) The revenue authorities shall;-

(i) include the list of auqaf referred to in sub-section (2), while updating the land records; and

(ii) take into consideration the list of auqaf referred to in sub-section (2), while deciding mutation in the land records.".

CLAUSE 9

14. That at page 3, line 23, ***after*** the word "have" the word "the" be ***inserted*** .

CLAUSE 11

15. That at page 4, line 9, ***for*** the word "or" the word "and" be ***substituted*** .

16. That at page 4, line 20, ***for*** the words "Central Council and the Council" the words "Council and it" be ***substituted***.

17. That at page 4, line 27 the words "Central Waqf" be ***deleted***.

18. That at page 4, line 30, ***for*** the words "Judge of the Supreme Court and the fee" the words "Judge of the Supreme Court or a retired Chief Justice of a High Court and the fees" be ***substituted***.

19. That at page 4, line 31 ***for*** the word "determined", the word "specified" be ***substituted***.

CLAUSE 12

20. That at page 4, line 38, ***for*** the words "one year from the date of the", the words "six months from the date of" be ***substituted***.

21. That at page 4, line 39, ***for*** the figure "2010", the figure "2013" be ***substituted***.

22. That at page 4, ***for*** lines 42 and 43, the following b e ***substituted***,

namely:-

"section 13, in the case of Shia waqf, the Members shall belong to the Shia Muslim and in the case of Sunni waqf, the Members shall belong to the Sunni Muslim".

CLAUSE 13

23. That at page 5, line 4, ***for*** the words "members enrolled with", the words "members of" be ***substituted***.

24. That at page 5, ***for*** lines 6 to 9, the following proviso be ***substituted***, namely:-

"Provided that in case there is no Muslim member of the Bar Council of a State or a Union Territory, the State Government or the Union Territory administration, as the case may be, may nominate any senior Muslim advocate from that State or the Union Territory, and";.

25. That at page 5, ***for*** lines 33 and 34, the following be ***substituted***, namely:-

"(d) one person each from amongst Muslims, to be nominated by the State Government from recognised scholars in Shia and Sunni Islamic Theology;".

26. That at page 5, line 37, ***for*** the words "Deputy Secretary", the words "Joint Secretary" be ***substituted***.

27. That at page 5, line 42, ***for*** the words "less than three and not more than five", the words "less than five and not more than seven" be ***substituted***.

28. That at page 6, line 3, ***for*** the bracket and figure "(7)", the bracket and figure "(5)" be ***substituted***.

29. That at page 6, ***after*** line 3, the following be ***inserted***, namely:-

"(IV) sub-section (7) shall be *omitted*;".

NEW CLAUSE 14A

30. That at page 6, ***after*** line 5, the following new clause be ***inserted***, namely:-

"14A. In section 16 of the principal Act, after clause (d), the following clause shall be *inserted*, namely:- Amendment of section 16.

"(da) he has been held guilty of encroachment on any waqf property;".

CLAUSE 15

31. That at page 7, line 5, ***for*** the words "show of hands", the words "method of secret ballot" be ***substituted***.

CLAUSE 16

32. That at page 7, line 18, ***for*** the word "sub-sections", the word "sub-section" be ***substituted***.

33. That at page 7, line 23, ***after*** the words "State Government", the words "and in case of non availability of a Muslim officer of that rank, a Muslim officer of equivalent rank may be appointed on deputation" be ***inserted.***

34. That at page 7, lines 24 and 25, be ***deleted***.

NEW CLAUSE 17A

35. That at page 7, ***after*** line 34, the following be ***inserted***, namely:

17A. For section 28 of the principal Act, the following section shall be *substituted*, namely:- Substitution of new section for section 28.

"28. Subject to the provisions of this Act and the rules made thereunder, the District Magistrate or in his absence an Additional District Magistrate or Sub Divisional Magistrate of a District in the State shall be responsible for implementation of the decisions of the Board which may be conveyed through the Chief Executive Officer and the Board may, wherever considers necessary, seek directions from the Tribunal for the implementation of its decisions.". Power of District Magistrate, Additional District Magistrate or Sub Divisional Magistrate to implement the directions of the Board.

CLAUSE 18

36. That at page 7, ***for*** lines 37 to 40, the following be ***substituted***, namely:-

"(a) in sub-section (1) as so numbered, for the words 'subject to such conditions and restrictions as may be prescribed and subject to the payment of such fees as may be leviable under any law for the time being in force', the words 'subject to such conditions as may be prescribed' shall be *substituted*;".

CLAUSE 20

37. That at page 8, ***for*** lines 14 to 22, the following be ***substituted***, namely:-

'(I) in sub-section (2), for clause (j), the following clause shall be substituted, namely:-

"(j) to sanction lease of any immovable property of a waqf in accordance with the provisions of this Act and the rules made thereunder:

Provided that no such sanction shall be given unless a majority of not less than two-thirds of the members of the Board present cast their vote in favour of such transaction:

Provided further that where no such sanction is given by the Board, the reasons for doing so shall be recorded in writing.";'.

38. That at page 8, line 26, ***for*** the word "fair", the word "market" be ***substituted***.

39. That at page 8, ***for*** lines 29 and 30, the following be ***substituted***, namely:-

"educational institution, shopping centre, market, housing or residential flats and the like" shall be *substituted*;".

CLAUSE 21

40. That at page 8, ***for*** lines 33 to 35, the following be ***substituted***, namely:-

"21. In section 33 of the principal Act, in sub-section (1), - Amendment of section 33.

(a) after the words "the Chief Executive Officer", the words "or any other person authorised by him in writing" shall be *inserted*;

(b) the words "either himself or any other person authorised by him in writing in this behalf" shall be *omitted*'.

CLAUSE 24

41. That at page 9, lines 2 and 3, be ***deleted***.

42. That at page 9, line 4, ***for*** the bracket and alphabet "(b)", the bracket and alphabet "(a)" be ***substituted***.

43. That at page 9, line 6, ***for*** the bracket and alphabet "(c)", the bracket and alphabet "(b)" be ***substituted***.

CLAUSE 26

44. That at page 9, ***for*** lines 13 to 19, the following be ***substituted***, namely:-

"26. In section 47 of the principal Act, - Amendment of section 47.

(I) in sub-section (1), -

(i) in clause (a), for the words "ten thousand rupees", the words "fifty thousand rupees" shall be *substituted*;

(ii) in clause (b), for the words "ten thousand rupees", the words "fifty thousand rupees" shall be *substituted*;

(iii) in clause (c), after the words "the State Government may,", the words "under intimation to the Board", shall be *inserted*;

(II) in sub-section (3), in the first proviso, the words "more than ten thousand rupees but less than fifteen thousand rupees", the words "more than fifty thousand rupees" shall be *substituted*.

CLAUSE 27

45. That at page 9, ***for*** lines 20 to 41, the following be ***substituted***, namely:-

"27. In section 51 of the principal Act,- Amendment of section 51.

(i) for sub-section (1), the following sub-sections shall be *substituted*, namely:-".

(1) Notwithstanding anything contained in the waqf deed, any lease of any immovable property which is waqf property, shall be void unless such lease is effected with the prior sanction of the Board:

Provided that no mosque, dargah, khanqah, graveyard, or imambara shall be leased except any unused graveyards in the State of Punjab, Haryana and Himachal Pradesh where such graveyard has been leased out before the date of commencement of the Wakf (Amendment) Act, 2013.

(1A) Any sale, gift, exchange, mortgage or transfer of waqf property shall be void *ab initio*:

Provided that in case the Board is satisfied that any waqf property may be developed for the purposes of the Act, it may, after recording reasons in writing, take-up the development of such property through such agency and in such manner as the Board may determine and move a resolution containing recommendation of development of such waqf property, which shall be passed by a majority of two-thirds of the total membership of the Board. 1 of 1894.

Provided further that nothing contained in this sub-section shall affect any acquisition of waqf properties for a public purpose under the Land Acquisition Act, 1894 or any other law relating to acquisition of land if such acquisition is made in consultation with the Board; 42 of 1991.

Provided also that –

(a) the acquisition shall not be in contravention of the Places of Public Worship (Special Provisions) Act, 1991;

(b) the purpose for which the land is being acquired shall be undisputedly for a public purpose;

(c) no alternative land is available which shall be considered as more or less suitable for that purpose; and

(d) to safeguard adequately the interest and objective of the waqf, the compensation shall be at the prevailing market value or a suitable land with reasonable solatium in lieu of the acquired property;

(ii) sub-sections (2), (3), (4) and (5) shall be *omitted*.".

CLAUSE 29

46. That at page 10, line 14, ***for*** the word "save", the word "except" be ***substituted***.

47. That at page 10, line 15, ***for*** the words "an officer duly authorised by the Board", the words "any officer duly authorised by the State Government" be ***substituted***.

CLAUSE 30

48. That at page 10, ***for*** lines 18 and 19, the following be ***substituted***, namely:-

"30. In section 54 of the principal Act,- Amendment of section 54.

(a) in sub-section (3), for the words "he may, by an order, require the encroacher to remove", *substitute* "he may, make an application to the Tribunal for grant of order of eviction for removing"

(b) for sub-section (4), the following sub-sections shall be *substituted*, namely:-

"(4) The Tribunal, upon receipt of such application from the Chief Executive Officer, for reasons to be recorded therein, make an order of eviction directing that the waqf property shall be vacated by all persons who may be in occupation thereof or any part thereof, and cause a copy of the order to be affixed on the outer door or some other conspicuous part of the waqf property:

Provided that the Tribunal may before making an order of eviction, give an opportunity of being heard to the person against whom the application for eviction has been made by the Chief Executive Officer.

(5) If any person refuses or fails to comply with the order of eviction within forty-five days from the date of affixture of the order under sub-section (2), the Chief Executive Officer or any other person duly authorised by him in this behalf may evict that person from, and take possession of, the waqf property.".

NEW CLAUSES 30A AND 30B

49. That at page 10, ***after*** line 19, the following be ***inserted***, namely:-

"30A. In section 55 of the principal Act, - Amendment of section 55.

(a) for the word, bracket and figure "sub-section (3)", the word, bracket and figure "sub-section (4) shall be *substituted*;

(b) for the words "apply to the Sub-Divisional Magistrate", the words "refer the order of the Tribunal to the Executive Magistrate" shall be *substituted*.

30B. After section 55 of the principal Act, the following section shall be *inserted*, namely:- Insertion of new section 55A.

"55A. (1) Where any person has been evicted from any waqf property under sub-section (4) of the section 54, the Chief Executive Officer may, after giving fourteen days' notice to the person from whom possession of the waqf property has been taken and after publishing the notice in at least one newspaper having circulation in the locality and after proclaiming the contents of the notice by placing it on conspicuous part of the waqf property, remove or cause to be removed or dispose of by public auction any property remaining on such premises. Disposal of property left on waqf property by unauthorised occupants.

(2) Where any property is sold under sub-section (1), the sale proceeds shall, after deducting the expenses relating to removal, sale and such other expenses, the amount, if any, due to the State Government or a local authority or a corporate authority on account of arrears of rent, damages or costs, be paid to such person, as may appear to the Chief Executive Officer to be entitled to the same:

Provided that where the Chief Executive Officer is unable to decide as to the person to whom the balance of the amount is payable or as to the apportionment of the same, he may refer such dispute to the Tribunal and the decision of the Tribunal thereon shall be final.".

CLAUSE 31

50. That at page 10, ***for*** line 21 to 36, the following be ***substituted***, namely:-

'(a) in sub-section (1), –

(i) for the words "A lease or sub-lease for any period exceeding three years", the words "A lease for any period exceeding thirty years" shall be *substituted*;

(ii) the following proviso shall be inserted at the end, namely:-

Provided that a lease for any period up to thirty years may be made for commercial activities, education or health purposes, with the approval of the State Government, for such period and purposes as may be specified in the rules made by the Central Government:

Provided further that lease of any immovable waqf property, which is an agricultural land, for a period exceeding three years shall, notwithstanding anything contained in the deed or instrument of waqf or in any other law for the time being in force, be void and of no effect:

Provided also that before making lease of any waqf property, the Board shall publish the details of lease and invite bids in at least one leading

national and regional news papers.';

(b) in sub-section (2), for the words "A lease or sub-lease for any period exceeding one year and not exceeding three years", the words "A lease for a period of one year but not exceeding thirty years" shall be *substituted;*'.

(c) in sub-section (3), –

(i) the words "or sub-lease", at both the places where they occur, shall be *omitted*;

(ii) the following proviso shall be *inserted* at the end, namely:-

51. That at page 10, lines 38 and 39, ***for*** the words "regarding a lease or sub-lease for any period exceeding one year and exchange or mortgage", the words "regarding a lease for any period exceeding three years" be ***substituted***.

CLAUSE 34

52. That at page 11, ***for*** lines 19 to 21, the following be ***substituted***, namely:-

"34. In section 68 of the principal Act, -

(i) in sub-section (2), for the words "Magistrate of the first class" and "Magistrate", the words "District Magistrate, Additional District Magistrate, Sub-Divisional Magistrate or their equivalent" shall be *substituted*;

(ii) in sub-sections (3), (4), (5) and sub-section (6), for the words "the Magistrate" the words "any Magistrate" shall be *substituted*.

CLAUSE 39

53. That at page 12, ***for*** lines 3 to 5, the following be ***substituted***, namely:-

"and a copy of the said auditor's report, along with orders shall be forwarded by the State Government to the Council within a period of thirty days of laying of such report before each House of the State legislature where it consists of two Houses or where such Legislatures consist of one House, before that House.".

CLAUSE 40

54. That at page 12, ***for*** lines 6 and 7, the following be ***substituted***, namely:-

"40. In section 83 of the principal Act, –

(a) for sub-section (1), the following sub-section shall be substituted, namely:-

(1) The State Government shall, by notification in the Official Gazette, constitute as many Tribunals as it may think fit, for the determination of any dispute, question or other matter relating to a waqf or waqf property, eviction of a tenant or determination of rights and obligations of the lessor and the lessee of such property, under this Act and define the local limits and jurisdiction of such Tribunals;

(b) for sub-section (4), the following sub-sections shall be *substituted*, namely:-

55. That at page 12, line 18, ***for*** the word "presented", the word "prescribed" be ***substituted***.

NEW CLAUSE 42A

56. That at page 12, ***after*** line 22, the following be ***inserted***, namely:-

"42A. Section 87 of the principal Act shall be *omitted*. Omission of section 87.

NEW CLAUSE 43A

57. That at page 12, ***after*** line 24, the following be ***inserted***, namely:-

"43A. In section 91 of the principal Act, in sub-section (1), for the words "it appears to the collector before an award is made that any property", the words "and before an award is made, in case the property" shall be substituted. Amendment of section 91.

CLAUSE 46

58. That at page 12, line 41, the words "Central Waqf" be ***deleted***.

CLAUSE 47

59. That at page 13, ***for*** lines 3 to 8, the following be ***substituted***, namely:-

"104A. (1) Notwithstanding anything contained in this Act or any other law for the time being in force or any waqf deed, no person shall sell, gift, exchange, mortgage or transfer any movable or immovable property which is a waqf property to any other person. Prohibition of sale, gift, exchange, mortgage or transfer of waqf property.

(2) Any sale, gift, exchange, mortgage or transfer of property referred to in sub-section (1) shall be void *ab initio.*".

NEW CLAUSE 47A

60. That at page 13, ***after*** line 8, the following be ***inserted***, namely:-

"47A. After section 104A of the principal Act, the following section shall be *inserted,* namely:- Insertion of new section 104B.

"104B. (1) If any waqf property has been occupied by the Government agencies it shall be returned to the Board or the mutawalli within a period of six months from the date of the order of the Tribunal. Restoration of waqf properties in occupation of Government agencies to waqf Boards.

(2) The Government agency may, if the property is required for a public purpose, make an application for determination of the rent, or as the case may be, the compensation, by the Tribunal at the prevailing market value.".

CLAUSE 48

61. That at page 13, line 10, the words "Central Waqf" be ***deleted***.

NEW CLAUSE 48A

62. That at page 13, ***after*** line 11, the following be ***inserted***, namely:-

'48A. After section 108 of the principal Act, the following section shall be inserted, namely:-	Insertion of new section 108A.
"108A. The provisions of this Act shall have overriding effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act.".'.	Act to have overriding effect.

CLAUSE 49

63. That at page 13, ***after*** line 26, the following be ***inserted***, namely:-

"(d) clause (xi) shall be *omitted*;".

64. That at page 13, line 27, ***for*** the bracket and alphabet "(d)", the bracket and alphabet "(e)" be ***substituted***.

(ii) " I am directed to inform the Lok Sabha that the Rajya Sabha at its sitting held on Monday, the 22nd April, 2013 adopted the following Motion in regard to the Committee on Welfare of Other Backward Classes (OBCs) :-

> "That this House concurs in the recommendation of the Lok Sabha to elect ten Members from amongst the Members of the Rajya Sabha to associate with the Committee on Welfare of Other Backward Classes for the term of one year beginning from the date of the first sitting of the Committee and do communicate to this House the names of Members so elected to the Committee."

2. I am further to inform the Lok Sabha that as a result of the election process initiated pursuant to the above Motion, seven Members of Rajya Sabha were duly elected to the said Committee and their names were communicated to the Lok Sabha through a Message dated 29th April, 2013 from the Rajya Sabha. As intimated therin, the election process to fill up the remaining three vacancies in the Committee was deferred to next Session of Rajya Sabha. Now the election process to fill up the same, having been completed during the current Session, the floowing Members of the Rajya Sabha have been duly elected to the said Committee on the 26th August, 2013 :-

1. Dr. Bharatkumar Raut
2. Dr. Anil Kumar Sahani
3. Shri Shankarbhai N. Vegad

(iii) " In accordance with the provisions of rule 111 of the Rules of Procedure and Conduct of Business in the Rajya Sabha, I am directed to enclose a copy of the Representation of the People (Amendment and Validation) Bill, 2013 which has been passed by the Rajya Sabha at its sitting held on the 27th August, 2013

2. Madam Speaker, I lay on the Table the Wakf (Amendment) Bill, 2010, as returned by Rajya Sabha with amendments and the Representation of the People (Amendments and Validation) Bill, 2013, as passed by Rajya Sabha on the 27th August, 2013.